



NEWS RELEASE

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Summary of Cases Accepted During the Week of December 8, 2008

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The statement of the issue or issues in each case set out below does not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#08-174 *People v. Soto, S167531.* (H030475; nonpublished opinion; Santa Clara County Superior Court; EE504317.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Is the victim's consent a defense to a charge of committing lewd acts with a child under 14 years of age by "use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury" (Pen. Code, § 288, subd. (b))?

STATUS

#07-469 *People v. Chun, S157601.* The court limited the issues to be argued in this case to all of the issues concerning whether the trial court prejudicially erred in instructing the jury on second degree felony murder. The court granted respondent leave to file a supplemental letter brief responding to defendant's argument that the jury should decide any question regarding the merger doctrine.

#08-04 *People v. Randall, S157645.*

#08-05 *People v. Superior Court (Smith), S158084*

The court directed the parties in *Randall* and *Smith* to brief the question whether review should be dismissed in light of the passage of Proposition 9 ("Marsy's Law") at the general election on November 4, 2008.